

PCT 10/52603

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference B21795 SZ/CW	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/FR2003/002184	International filing date (day/month/year) 10 juillet 2003 (10.07.2003)	Priority date (day/month/year) 16 juillet 2002 (16.07.2002)
International Patent Classification (IPC) or national classification and IPC B29C 49/42		
Applicant NESTLE WATERS MANAGEMENT & TECHNOLOGY		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 7 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 4 sheets.

3. This report contains indications relating to the following items:

- I Basis of the report
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

Date of submission of the demand 13 février 2004 (13.02.2004)	Date of completion of this report 04 August 2004 (04.08.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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I. Basis of the report

1. With regard to the elements of the international application:*

 the international application as originally filed the description:

pages _____ 1-12 _____, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of _____

 the claims:

pages _____, as originally filed

pages _____, as amended (together with any statement under Article 19)

pages _____, filed with the demand

pages _____ 1-21 _____, filed with the letter of _____

 the drawings:

pages _____ 1/5-5/5 _____, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of 16 June 2004 (16.06.2004)

 the sequence listing part of the description:

pages _____, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

 the language of a translation furnished for the purposes of international search (under Rule 23.1(b)). the language of publication of the international application (under Rule 48.3(b)). the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

 contained in the international application in written form. filed together with the international application in computer readable form. furnished subsequently to this Authority in written form. furnished subsequently to this Authority in computer readable form. The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished. The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4. The amendments have resulted in the cancellation of: the description, pages _____ the claims, Nos. _____ the drawings, sheets/fig _____5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-6, 10-21	YES
	Claims	7, 8, 9	NO
Inventive step (IS)	Claims	1-6, 10-21	YES
	Claims	7, 8, 9	NO
Industrial applicability (IA)	Claims	1-21	YES
	Claims		NO

2. Citations and explanations

1 Reference is made to the following document:

D1: FR-A-2 736 299 (SIDEL SA) 10 January 1997 (1997-01-10)

2 Clarity

The application does not meet the requirements set out in PCT Article 6. Claim 7 is not clear.

2.1 As explained below, certain features disclosed in device claim 7 describe the procedure for operating the device, instead of clearly defining the device in terms of its technical features. The limitations which these features are intended to define are not clear from this claim, contrary to PCT Article 6.

For example: "...locking means suitable for keeping said lug...in such a way that said preform pivots substantially relative to said lug...".

2.2 The wording used in the description on page 12, line 13-line 17 appears to indicate that the subject matter to be protected is different from the subject matter defined in the claims. The claims are therefore not clear when read in conjunction with the description (PCT Article 6).

3 Novelty and inventive step

Conclusion:

The subject matter of claims 1-6, 10-20 and 21 meets the requirement of novelty.

The subject matter of claims 7, 8 and 9 does not meet the requirement of novelty.

The subject matter of claims 1-6, 10-20 and 21 meets the requirement of inventive step.

The subject matter of claims 7, 8 and 9 does not meet the requirement of inventive step.

3.1 Claim 1: The prior art, cf. document D1, is a method for indexing a preform (5) equipped with at least one attachment lug projecting outward from the body thereof, said method being used during production of a container starting from the preform and essentially comprising a step of pre-heating the preform before the main preform-blowing step, during which the preform is moved on a transporting carrier allowing rotation thereof about its longitudinal axis. The method consists, between said preform-heating step and said preform-blowing step, in mechanically stopping the preform rotating (figures 3 and 4; reference signs 6, 11, 2, 3) on its transporting carrier, the position of at least one attachment lug being at a specific angle, said angular position of the attachment lug after stopping being determined according to a predetermined desired position thereof after transfer of said preform by a transfer clamp into the blow or blow-and-draw mold, according to the preamble of claim 1.

The problem is the orientation of the lugs of the preform when the latter is being placed in the mold, cf. page 3, line 1 - line 2.

The solution is that the orientation of at least one attachment lug of said preform relative to the transfer clamp during transfer to the blow or blow-and-draw mold is changed by rotating the preform about its longitudinal axis when it is being held in the transfer clamp by using a driving means to cause the preform to make a limited rotation, said means being in the form of a mobile stop combined with said clamp and able to bear on at least one of said lugs in order to cause rotation of said preform.

The solution provided by claim 1 is not known or suggested by the prior art.

3.2 Claims 2-5 and 6 are dependent on claim 1 and therefore, as such, also meet the PCT requirements of novelty and inventive step.

3.3 Claims 19, 20 and 21 correspond to claim 1 and therefore also meet the PCT requirements of novelty and inventive step.

3.4 The present application does not meet the requirements set out in PCT Article 33(1), as the subject matter of claim 7 does not meet the requirement of novelty defined by PCT Article 33(2).

Document D1 describes (the references between parentheses apply to this document):

An indexing unit (figure 4) suitable for implementing the method according to any one of claims 1 to 6, in that it mainly comprises a mechanical stopping means (3, 6, 11) for mechanically stopping rotation of the preform after the heating step, said mechanical stopping means

comprising a means for immobilising (11) said at least one attachment lug projecting outward from the body of the preform, said preform being subject to the combined actions of a means for driving in translation (1, 2) and a means for driving in rotation (6, 2), said immobilising means being suitable for holding said lug in a substantially stationary position while the preform continues to be driven in the translation direction, independently of the rotation drive means, as it turns about its axis in such a way as to substantially pivot relative to said lug, and said immobilising means being suitable for freeing said lug when the latter is in said specific angular position.

The subject matter of claim 7 is not therefore novel* (PCT Rule 62).

* The features that explain the procedure for operating the device in a device claim are not considered. See paragraph 2.1 above.

Dependent claims 8 and 9 do not contain any feature that meets the PCT requirements of novelty (see document D1, reference signs 6 and B).

The subject matter of claims 7, 8 and 9 does not meet the requirement of novelty or, therefore, the requirement of inventive step.

3.5 The prior art does not contain the features of claims 10, 11 and 17 in combination, and does not follow obviously therefrom for the following reasons:

the solutions to the problem of the orientation of the lugs of the preform when the latter is being placed in the

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mold as set out in claims 10, 11 and 17 (said rigid cam comprises a first planar surface (claim 10), said rigid cam comprises a recessed surface forming a hollow (claim 11), the means for driving the preforms is a chain (claim 17)), are neither known nor obvious from the prior art.